

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE**

**In the Matter of:** Proposed adoption or amendment of the Insurance Commissioner's regulations pertaining to Pure Premium Rates for workers' compensation insurance, California Workers' Compensation Uniform Statistical Reporting Plan—1995, Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995. **These regulations will be effective on January 1, 2009.**

**FILE NUMBER REG-2008-00027**

**DECISION AND ORDER**

**1. Decision on WORKERS' COMPENSATION CLAIMS COST BENCHMARK**

The California Workers' Compensation System has undergone dramatic reforms that have resulted in savings to employers through reduced insurance premiums and attracted worker's compensation insurance companies to compete for business in California. Despite the recent troubles in the economy, it is clear from the analysis and discussion of my staff's Proposed Decision that workers' compensation insurers remain financially healthy and are able to pay the claims of injured workers and remain profitable. In fact, insurers have the ability to further reduce the premiums charged to California employers.

It is important to ensure clear communication regarding my determination of the estimated change in claim costs that develop in the workers' compensation system, so that employers and injured workers understand that this Decision establishes a benchmark from which insurance companies will base their premium rates to adequately and fairly price workers' compensation insurance. Therefore, I agree that the use of the term Workers' Compensation Claims Cost Benchmark is a clear description of that estimate. This Benchmark can be used by the WCIRB to adjust its own pure premium rates for each of the approximately 500 employee classifications.

The extensive analysis set forth in the Proposed Decision continues to show uncertainty and inconsistency in the data regarding workers' compensation costs. Various experts and interested parties provided different viewpoints of the forces at play in the workers' compensation system. My staff has acknowledged this uncertainty in their own review of the information and have indicated the factors that may cause increasing costs, including medical treatment costs. However, given the extensive reforms that favor control of medical treatment by employers and insurance companies, I do not believe that the system will allow medical treatment costs to increase greatly.

My staff has previously used a 1% medical trend, which I believe adequately reflects the estimated change in costs to medical treatment, takes into account the controls that are in place, and allows for a moderate increase in the Claims Cost Benchmark. Along with the exclusion of the Off-Balance Adjustment discussed below, this results in a 5% increase in the Workers'

Compensation Claims Cost Benchmark. As the data on claims costs further develop and become more solid, we will have a more credible picture of loss development in the system and whether there has been any erosion to the workers' compensation reforms. If that is the case, additional review and adjustment of the regulations regarding workers' compensation benefits or even additional legislation to address the costs in the system may be needed.

Despite an adjustment to the Claims Cost Benchmark, it is clear that insurance companies remain profitable in California and can still reduce the premiums they charge to employers. In these troubling economic times, insurers should be working with their employer customers to control the cost of workers' compensation insurance and help California businesses to remain financially healthy and competitive. Although I do not control the rates charged by insurers for workers' compensation insurance, I encourage employers to work with their insurance agents and brokers to shop for the best price on their workers' compensation insurance.

## **2. Experience Rating Off-Balance Factor**

The Proposed Decision acknowledges the request of the WCIRB that the Experience Rating System has resulted in an imbalance in the costs in the workers' compensation system due to the credits given to experience-rated employers and the poorer experience of non-rated employers. I agree that there should be an adjustment for the off-balance as outlined by my staff. However, as was done in the previous Decision, this should be reflected in the Experience Rating System and not in the Claims Cost Benchmark, and the WCIRB is directed to adjust it accordingly.

## **3. Continuing Issues with Analysis and Forecasting by the WCIRB**

As again noted in this and prior Proposed Decisions, the WCIRB continues to have difficulties in adequately evaluating the costs in California's workers' compensation system. The WCIRB has begun work to address the problems, but there is still more to do. For example, last year's filing by the WCIRB estimated dramatic increases in Loss Adjustment Expenses. This was rejected by the Department, and it has been shown that those expenses have moderated and are substantially smaller as reflected in this Proposed Decision.

It appears that the WCIRB continues to take a very narrow approach in its review and analysis of the workers' compensation cost data that consistently favors insurers. Since the Department must rely upon the WCIRB since it is the only licensed workers' compensation rating organization currently in California, further improvements are essential.

The Department is working with the WCIRB to revise the data requirements and its analysis. The Department is also currently conducting an extensive top-down review of the WCIRB. Once that review is completed, the Department will provide recommendations to me on how the WCIRB can improve as both California's sole rating organization and the Department's workers' compensation statistical agent.

## ORDER

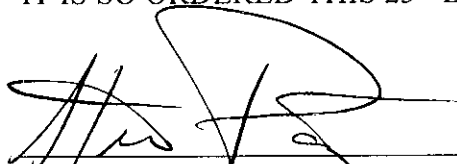
I hereby adopt the attached Proposed Decision and Proposed Order of Hearing Officer Christopher A. Citko dated October 23, 2008, as my Decision in the above entitled matter, in addition to those items ordered or directed above, with the exception to the change to the Workers' Compensation Claims Cost Benchmark.

WHEREFORE, IT IS ORDERED that the Workers' Compensation Claims Cost Benchmark be increased by 5% (+5%);

IT IS FURTHER ORDERED that the WCIRB apply the increase of the Benchmark as it would the average change of the pure premium rates; and

IT IS FURTHER ORDERED that in lieu of the +1% increase in the off-balance correction factor indicated in the Proposed Decision, the WCIRB is directed to adjust the Expected Loss Rates in order to maintain the off-balance factor reflected in the current pure premium rates.

IT IS SO ORDERED THIS 23<sup>rd</sup> DAY OF OCTOBER, 2008.

  
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STEVE POIZNER  
Insurance Commissioner